MONTANA LEGISLATIVE HISTORY

Chapter 429 19 85

Bill H 520 S _____ Original bill & history X C

H. Committee on JUDICIARY			S. Committee on JUDICIARY		
Hearing Date(s)	2/11	X C	Hearing Date(s)	3/25	X C
EXEC. ACTION	2/23	X C	EXEC. ACTION	3/28	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1/18 INTRODUCED
1/18 REFERRED TO BUSINESS & LABOR
1/22 HEARING
1/24 COMMITTEE REPORT-BILL PASS AS AMENDED
1/26 2ND READING PASS
1/29 3RD READING PASS

TRANSMITTED TO SENATE
1/30 REFERRED TO BUSINESS & INDUSTRY
2/04 REREFERRED TO JUDICIARY
3/07 HEARING
3/07 ADVERSE COMMITTEE REPORT
3/07 BILL KILLED

HB 265 INTRODUCED BY REAM, MARKS
STREAM ACCESS

1/18 INTRODUCED
1/18 REFERRED TO JUDICIARY
1/22 HEARING
2/13 COMMITTEE REPORT-BILL PASS AS AMENDED
2/13 STATEMENT OF INTENT ATTACHED
2/16 2ND READING PASS
2/19 3RD READING PASS

TRANSMITTED TO SENATE
2/21 REFERRED TO JUDICIARY
3/08 HEARING
3/28 COMM REPORT-BILL CONCURRED AS AMENDED
STATEMENT OF INTENT AMENDED
3/30 2ND READING CONCURRED AS AMENDED
4/01 3RD READING CONCURRED

RETURNED TO HOUSE WITH AMENDMENTS
4/05 2ND READING AMENDMENTS NOT CONCURRED
4/09 CONFERENCE COMMITTEE APPOINTED
4/11 CONFERENCE COMMITTEE REPORT

HOUSE
4/12 2ND READING CONFERENCE COMMITTEE REPORT ADOPTED
4/12 3RD READING CONFERENCE COMMITTEE REPORT ADOPTED

SENATE
4/12 2ND READING CONFERENCE COMMITTEE REPORT NOT ADOPTED
SUBSTITUTE MOTION FAILED

SENATE
4/12 2ND READING CONFERENCE COMMITTEE REPORT ADOPTED
4/13 3RD READING CONFERENCE COMMITTEE REPORT ADOPTED

4/16 SIGNED BY SPEAKER
4/16 SIGNED BY PRESIDENT

4/16 TRANSMITTED TO GOVERNOR
4/19 SIGNED BY GOVERNOR

CHAPTER NUMBER 556 EFFECTIVE DATE: 4/19/85

INTRODUCED BY HARBIN
REQUIRE TAX PAYMENTS OVER $500,000 TO BE MADE BY ELECTRONIC FUNDS TRANSFER
BY REQUEST OF DEPARTMENT OF ADMINISTRATION

1/19 INTRODUCED
1/19 REFERRED TO STATE ADMINISTRATION
1/30 HEARING
1/30 COMMITTEE REPORT-BILL DO PASS
1/30 STATEMENT OF INTENT ATTACHED
2/02 2ND READING PASS 79 11
2/04 3RD READING PASS 88 11

TRANSMITTED TO SENATE
2/07 REFERRED TO BUSINESS & INDUSTRY
3/07 HEARING
3/07 COMMITTEE REPORT-BILL CONCURRED
3/08 2ND READING CONCURRED 49 0
3/11 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
3/14 SIGNED BY SPEAKER
3/14 SIGNED BY PRESIDENT

3/14 TRANSMITTED TO GOVERNOR
3/18 SIGNED BY GOVERNOR
CHAPTER NUMBER 96 EFFECTIVE DATE: 7/01/85

INTRODUCED BY HARBIN
CHANGING DATE FOR REMITTING BASIC SCHOOL EQUALIZATION SURPLUS TO STATE
BY REQUEST OF DEPARTMENT OF ADMINISTRATION

1/19 INTRODUCED
1/19 REFERRED TO EDUCATION & CULTURAL RESOURCES
1/25 HEARING
1/26 COMMITTEE REPORT-BILL DO PASS
1/30 2ND READING PASS 94 1
1/31 3RD READING PASS 99 0

TRANSMITTED TO SENATE
2/04 REFERRED TO EDUCATION & CULTURAL RESOURCES
2/15 HEARING
2/16 COMMITTEE REPORT-BILL CONCURRED
2/19 2ND READING CONCURRED 45 0
2/21 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
2/23 SIGNED BY SPEAKER
2/25 SIGNED BY PRESIDENT

2/25 TRANSMITTED TO GOVERNOR
2/28 SIGNED BY GOVERNOR
CHAPTER NUMBER 50 EFFECTIVE DATE: 2/28/85

INTRODUCED BY HARBIN
AGENCY LETTING CONTRACT TO HOLD SECURITY IN LIEU OF RETAINED PAYMENTS

HOUSE BILL NO. 520

INTRODUCED BY [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE PUBLIC DOES NOT HAVE THE RIGHT TO MAKE RECREATIONAL USE OF WATERS THAT HAVE BEEN DIVERTED FOR PURPOSES OF APPROPRIATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Recreational use of diverted surface waters prohibited. The right of the public to make recreational use of surface waters does not include the right to make recreational use of the following surface waters:

(1) irrigation and drainage canals and ditches;

(2) flood control channels;

(3) municipal, industrial, and domestic water systems;

(4) hydroelectric power supply and discharge facilities; or

(5) any other waters while they are diverted away from a natural water body for beneficial use pursuant to Title 85, chapter 2, part 2 or 3.

-End-

Montana Legislative Council

INTRODUCED BILL
HB 520

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 520	1/28/85	2/11/85 2/23/85	2/23/85			2/23/85			
HB 521	1/28/85	2/1/85	2/20/85		2/1/85				
HB 522	1/28/85	2/8/85 2/14/85	2/14/85			2/14/85			
HB 529	1/28/85	2/11/85 2/22/85	2/22/85			2/22/85			
HB 528	1/28/85	2/8/85 2/16/85	2/16/85		2/16/85				
HB 531	1/29/85	2/6/85 2/8/85	2/8/85			2/8/85			
HB 532	1/29/85	2/6/85 2/8/85	2/8/85	2/8/85					
HB 533	1/29/85	2/12/85 2/20/85	2/23/85		2/20/85	AS AMENDED			
HB 536	1/29/85	2/12/85 2/20/85	2/23/85		2/20/85	Re-referred back to Comm. 2-27			
HB 541	1/29/85	2/15/85 2/16/85	2/16/85	2/16/85					
HB 547	1/29/85	2/7/85 2/8/85	2/8/85	2/8/85					
HB 557	1/29/85	2/13/85	2/13/85			2/13/85			
HB 566	1/30/85	2/8/85 2/13/85	2/13/85	(WITHOUT RECOMMENDATION AS AMENDED)					
HB 575	1/30/85	2/8/85 2/11/85	2/11/85			2/11/85			
HB 577	1/31/85	2/15/85 2/16/85	2/16/85			2/16/85			
HB 585	1/31/85	2/15/85 2/16/85	2/16/85	2/16/85					

Gary Blewett, Administrator of the Workers' Compensation Division, Department of Labor and Industry, testified in support of this bill. He said the division investigates approximately 600 to 700 employers a year for possible uninsured status. They have narrowed that down to around 230 who they were capable of finding. Out of the 230 cases, there are about three fourths of them that have accidents on the uninsured cases.

OPPONENTS:

George Wood, executive secretary of the Montana Self-Insurers Association, testified against HB 529. He said the theory of providing benefits for injured employees of uninsured employers is a good one; unfortunately, the fund has always been underfunded. He feels this bill does not correct this defect, but only further confuses it. A copy of his testimony was marked Exhibit A and attached hereto.

There being no further opponents, Rep. Addy closed. This bill seeks to place the burden for funding injuries to workmen who work for unemployed injurers on the shoulders of those who did not choose to insure their employees. It places the burden on the shoulders of the people who are responsible for the problem.

The floor was opened to questions from the committee.

In response to a question, Rep. Addy said there is a general body of law allowing the "piercing of the corporate veil" where a manifested justice would result, where the corporation has been undercapitalized, where the corporation is actually the alter-ego, or where the refusal to permit the "piercing the corporate veil" would be tantamount to condoning a fraud.

In response to a question, Mr. Wood said his suggestion for funding this fund would be 1/3 general fund, 1/3 employers and 1/3 employees since we all have an interest in the lack of income for these people following the injury. He pointed out that there are some states that fund in that manner.

There were more general questions directed towards Rep. Addy and Mr. Blewett. Hearing closed on HB 529.

CONSIDERATION OF HOUSE BILL NO. 520: Rep. Ed Grady, House Distrct No. 47, chief sponsor for this bill, offered testimony in its support. This bill was requested by the Montana Water Development Association and the Montana Irrigators. The bill was a result of

the recent supreme court decision in regards to the access issue.

K. M. Kelly, representing the Montana Water Development Association and the Montana Irrigators. He said this bill was intended to apply only to irrigation districts or other irrigation facilities which for the most part are on private property. Mr. Kelly offered a few amendments to the bill. On page 1, line 13, following "waters" insert "without permission or contractural arrangement with the owner". On page 1, line 15 following "(2) add "manmade". On line 16 following "systems" add "excluding the lakes, streams and reservoirs from which the system obtains its waters"; on page 1, line 18 following "facilities" add "that are not subjection to federal jurisdiction under the federal power act". He said that even though the stream access bills are now pending, they may not pass in the form they are presently in print. Therefore, we would like to have it clarified that these irrigation districts and facilities are not available for recreation use. The reason for this is because of public safety. He further added that this bill won't discontinue lawsuits in their entirety, but it may aide them. (Mr. Kelly's testimony was marked Exhibit B and attached hereto.) We are just trying to relieve ourselves of some of the liability that could be involved.

Jo Brunner, representing the Montana Women Involved in Farm Economic organization, did not appear perse, but a copy of her written testimony was marked as Exhibit C and is attached.

Jim Flynn, director of the Department of Fish, Wildlife and Parks, offered testimony on HB 520. The department supports the intent of HB 520, however it has two additional concerns that Mr. Flynn addressed. A copy of his written testimony was marked as Exhibit D and is attached hereto the minutes.

Ron Waterman, representing the Montana Stockgrowers Association, supports the concept of the bill only with the proposed amendments as presented by Mr. Flynn.

Bill Asher, representing the Agricultural Preservation Association, the Park County Legislative Association, and the Meagher County Preservation Association, stated that he supports the concept of this bill. A copy of his testimony was marked as Exhibit E and attached hereto.

Mike Zimmerman, attorney for the Montana Power Company, stated his support for the bill with the amendments

offered by Mr. Kelly. He further stated that the company doesn't have any problem with HB 265.

Mike Micone, representing the Western Environmental Trade Association, stated his support for the bill with the amendments offered by Mr. Kelly.

There being no proponents to the bill, Rep. Grady closed. Rep. Grady feels this bill should pass in case HB 265 is jeopardized in any way.

In response to a question by Rep. Eudaily, Mr. Kelly stated that the intent of the bill is to say that while we are trying to prevent good reasonable use of the facility from the impoundment on, we are not trying to regulate the water that is behind the dam. Mr. Kelly stated he would have no objection clarifying this language.

Hearing closed on HB 520.

EXECUTIVE SESSION:

Representative Hannah called an executive session at 10:30 a.m.

ACTION ON HOUSE BILL NO. 575: Rep. Darko moved that HB 575 DO PASS. The motion was seconded by Rep. Hammond.

Rep. Addy moved the bill on line 25 following "victim" by striking the rest of the sentence in its entirety. The motion was seconded by Rep. Rapp-Svrcek and the question called. The motion to amend carried unanimously.

Rep. Darko moved that HB 575 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and discussed. The question was called, and the motion carried unanimously.

ACTION ON HOUSE BILL NO. 600: Rep. Keyser moved that HB 600 DO PASS. The motion was seconded by Rep. O'Hara. The motion carried with Rep. Brown and Krueger dissenting.

ACTION ON HOUSE BILL NO. 313: Rep. Keyser moved that HB 313 BE TABLED. The motion was seconded by Rep. Gould and carried unanimously.

ACTION ON HOUSE BILL NO. 300: Rep. Eudaily moved that HB 300 DO PASS. The motion was seconded by Rep. Hammond.

EXHIBIT D
HB 520
2/11/85

HB 520

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

February 11, 1985

Mr. Chairman, the Department of Fish, Wildlife & Parks supports the intent of HB 520 and appreciates the attention to our concerns by the sponsor in proposing amendments to clarify the bill. However, we have two additional concerns that we would like addressed.

It appears even with the amendments that it will be illegal to boat or fish on some presently popular boating and fishing areas. Reservoirs such as Fort Peck, Canyon Ferry, Hungry Horse and Lake Koocanusa are not under the federal power act, although they are federal reservoirs.

We would suggest adding language on page 1 after the word "Act" in Sub 4 which would state "or which are not owned or operated by the federal government."

We also have situations such as Deadman's Basin, Nelson Reservoir, Pishkun Reservoir, Dailey Lake and Park Lake where through the years public access has been provided. In fact, many of these areas have been developed by this agency to the point of owning sites on the banks of the project. HB 520 is not clear as to whether the public can use the surface water or if this use is to be discontinued until such time as a formal agreement can be worked out.

To address this matter, we suggest that on page 1, Sub 5, line 21, after the figure "3" the following statement is added: "except for impoundments or diversion channels to which the state or federal government or the owner has provided public access."

We feel these two changes would provide a clearer understanding of of the definitions intended.

ACTION ON HOUSE BILL NO. 793: Rep. Bergene moved that HB 793 DO PASS. The motion was seconded by Rep. Hammond.

Rep. Hannah said that he views HB 793 as a reporting bill. He further said that the law is already on the books.

Rep. Mercer spoke in favor of the bill, but he suggested an amendment be made in the new section by striking line 19 up to "commission" on line 20 and by inserting in lieu thereof "is called to the scene of a reported incident". Furthermore, on page 2, line 20 strike "but" and insert ", but he"; on page 2, line 21 strike "do so" and insert "make an arrest". The amendment was seconded by Rep. Keyser, and it carried unanimously.

Rep. Brown further moved that HB 793 DO PASS AS AMENDED. The motion was seconded by Rep. Keyser and carried unanimously.

ACTION ON HOUSE BILL NO. 862: Rep. Addy moved that HB 862 DO PASS. The motion was seconded by Rep. Hammond. Rep. Addy further moved that the amendments as submitted at the hearing be adopted. The motion was seconded by Rep. Keyser and carried unanimously.

Rep. Gould moved that HB 862 DO PASS AS AMENDED. The motion was seconded by Rep. Miles.

It was Rep. Mercer's opinion that this bill is not accomplishing anything at all.

Following further discussion, Rep. Gould made a substitute motion TO TABLE the bill. The motion was seconded by Rep. Keyser, and the motion carried 9-8. (See roll call vote.)

ACTION ON HOUSE BILL NO. 520: Rep. Grady moved that HB 520 DO PASS. The motion was seconded by Rep. Keyser and discussed.

Rep. Rapp-Svrcek moved an amendment on page 1, line 21, following "3" by inserting ", except for impoundments or diverted waters to which the owner has provided public access". The motion was seconded by Rep. Krueger. The question was called, and the motion carried with Rep. Montayne dissenting.

A motion was made to adopt the amendments proposed by K. M. Kelly which were submitted at the February 11th hearing. The motion was seconded and carried unanimously.

Upon suggestion of Brenda Desmond, committee researcher, the committee also adopted the amendment to strike on page 1, line 17 the word "supply" and insert the word "inlet". This language would conform with the language in House Bill No. 265.

Rep. Rapp-Svrcek moved that HB 520 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and carried unanimously.

ADJOURN: A motion having been made and having been seconded, the meeting adjourned at 1:30 p.m.

Tom Hannah

TOM HANNAH, Chairman

STANDING COMMITTEE REPORT

February 22 19 93

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 520

FIRST reading copy (WHITE color)

CLARIFYING PUBLIC DOES NOT HAVE RIGHT TO USE DIVERTED WATER FOR RECREATION

Respectfully report as follows: That HOUSE Bill No. 520

be amended as follows:

1. Page 1, line 13.
Following: "waters"
Insert: "without permission or contractual arrangement with the owner,"

2. Page 1, line 13.
Following: "(2)"
Insert: ~~manmade~~ "manmade"

3. Page 1, line 16.
Following: "systems"
Insert: ", excluding the lakes, streams, and reservoirs from which the systems obtain water"

4. Page 1, line 17.
Strike: "supply"
Insert: "inlet"

DO PASS

(continued)

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

February 23 1935

5. Page 1, line 21.
Following: "3"
Insert: ", except for impoundments or diverted waters to which the owner has provided public access"

AND AS AMENDED,
DO PASS

STATE PUB. CO.
Helena, Mont.

REP. JOY BENNETT Chairman.

CHAIRMAN--MAZUREK, JOE
SECRETARY-STALEY, CINDY
NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0520	3/05	3/25		CONCUR		3/28
GRADY, EDWARD J.			CLARIFYING PUBLIC DOES NOT HAVE RIGHT TO USE DIVERTED WATER FOR RECREATION			
HB0522	2/21	3/07		CONCUR AS AMENDED		3/7
PECK, RAY			PROVIDING NOTICE TO CLAIMANTS OF CERTAIN PROPERTY SUBJECT TO FORFEITURE			
HB0529	3/05	3/18		CONCUR		3/22
ADDY, KELLY			WORKERS' COMP. REMEDIES WHEN EMPLOYER IS UNINSURED			
HB0532	2/13				BUSINESS & LABOR	
PISTORIA, PAUL G.			LIMITATION ON PENALTIES THAT MAY BE IMPOSED BY A PRIVATE PARKING SERVICE			
HB0541	2/22	3/21		CONCUR AS AMENDED		3/23
DARKO, PAULA A.			PARTY MULTIPLYING LEGAL PROCEEDINGS LIABLE FOR INCREASED COSTS			
HB0547	2/13	3/11		CONCUR		3/11
MILES, JOAN			REVISION OF LAW ON CERTAIN SEXUAL CRIMES			
HB0566	2/21	3/12		CONCUR		3/12
THOMAS, FRED			PROHIBIT INSTALLATION AND USE OF DIAL-UP SECURITY ALARM SYSTEMS			
HB0575	2/16	3/25		ADVERSE REPORT /as amended		3/25
KADAS, MIKE			INCREASED PENALTY FOR CERTAIN UNLAWFUL RESTRAINTS OF A CHILD			
HB0579	2/16	3/12		CONCUR AS AMENDED		3/21
WINSLOW, CAL			CERTIFICATION FOR VOLUNTARY ADMISSION OF MENTAL PATIENT TO STATE HOSPITAL			
HB0585	2/22	3/20	3/20	CONCUR AS AMENDED		3/23
GOULD, R. BUDD			REVISE SENTENCE REVIEW PROCEDURE			
HB0586	2/19	3/20		CONCUR		3/20
GOULD, R. BUDD			CONFISCATE AND DISPOSE OF INMATES' CONTRABAND			

has been committed. This should help. Great Falls is keeping these statistics on their own. They are trying to protect the police officers as well as the victims.

CLOSING STATEMENT: Representative Keenan referred to the report from the Attorney General's Task Force on Family Violence. She stated something must be done. If it's an arrest, let's do it. If it's a holding for 72 hours, let's do it. It is not worth taking a life by not doing something.

Hearing on HB 793 was closed.

CONSIDERATION OF HB 520: Representative Ed Grady, sponsor of HB 520, testified this bill addresses the very important part of water after it leaves the main body of water for appropriation purposes. We are saying that these bodies of waters are very dangerous to use by the public without getting permission and often should not be used. The public should have permission before using these bodies of water.

PROPONENTS: K. M. Kelly, on behalf of the Montana Water Development Association and Montana Irrigators, Inc., presented written testimony in support of the bill (Exhibit 6). There are a couple of suits pending in court right now for accidental drownings in an irrigation district in the eastern part of the state. Canals are full of children in the summer, but they are very dangerous. From a public safety standpoint, they would like to see the legislature prohibit the recreational use of facilities without permission. Ron Waterman, representing the Montana Stockgrowers Association, Montana Woolgrowers Association, Montana Association of State Grazing Districts, Montana Cowbelles, Montana Farmers Union, Montana Cattle Feeders Association, Montana Farm Bureau Federation, Montana Water Development Association, Women Involved in Farm Economics, Montana Grain, Montana Irrigators, Inc., Montana Dairymen, Montana Cattlemen's Association, and the Agricultural Preservation Association, testified this bill is to a degree reflective of HB 265. It to a degree duplicates, but has some broader language as well. They would encourage along those lines as a piece of legislation which may be duplicative of HB 265 and that it be put behind HB 265 as a true caboose. Conrad Fredricks, representing Sweetgrass County Preservation Association, presented written testimony in support of the bill (Exhibit 7). R. A. Ellis, Helena Valley Irrigation District, testified it is not safe for the children to play in it. The Irrigation District has had problems with people waterskiing in the canals. In the canals, they use a volatile aquatic weed killer which gives someone a rash if they swim in it. They have inverted syphons and drops which are dangerous. Jim Flynn, representing the Department of Fish, Wildlife and Parks, testified the department supported the intent of the bill but did have

problems with specific language in it. Those concerns were taken care of in the amendments in the bill before the committee. It addresses an issue that does need to be addressed. He affirmed the comments of Mr. Waterman regarding the relationship of this bill to HB 265. Mike McCone, representing the Western Environmental Trade Association, believed this bill complemented SBs 418, 421, and 424 and concurred with the amendments. Sam Hofman, of the Gallatin County Agricultural Preservation Association, supported the bill. Lorents Grosfield, of Big Timber, testified there's nothing in the supreme court decisions or the Montana Constitution that gives the public the right to use any waters under the doctrine of prior appropriation.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Pinsoneault asked if there were regulations for posting these waters. Mr. Flynn responded he assumed the use of these areas is a private use. As they are private property, they would need the landowners' permission or the associations' permission to use the land. The question that comes up is the recreational use of waters as defined by the supreme court. This clarifies that decision as it refers to the use of surface waters. When you get to how the landowners' permission is to be communicated to the public, that will be gotten to in HB 911. Mr. Kelly stated the irrigation districts have easements through the private property and would be responsible for posting those facilities citing the public law.

CLOSING STATEMENT: Representative Grady stated he would support the theory this bill should be held in view of HB 265's outcome.

Hearing on HB 520 was closed.

CONSIDERATION OF HB 891: Representative Kelly Addy, sponsor of HB 891, testified this bill deals with some of the procedural aspects involved in eminent domain. It is the intent of HB 891 to give the landowner who is affected by a taking for public use some additional procedural safeguards and notice. Section 1 deals with surveying the land. The Highway Department would rather not have the duty of notifying persons in possession of the land. He will leave that to the committee's discretion. There is a lesser likelihood that the land will overlap judicial districts than it will overlap counties. They are trying to assure that the impact on the private landowner will be as moderate as possible. They are not to take any larger portion of the owner's property or for any longer duration to accomplish the intended use. This gives the defendant 30 days to file a claim for just compensation. Previously they had only 10 days. Section 5 gives the original owner a meaningful right of first refusal. When the public use is no longer in

rehabilitate, a plea of guilty is the first step toward acknowledgment on the part of the defendant. That is very important. The motion carried (see roll call vote attached as Exhibit 7).

TABLING OF HB 329: Chairman Mazurek explained that HB 329 still remained in committee. A previous motion to table the bill failed on a tie vote. Senator Shaw moved HB 329 be tabled. The motion to table HB 329 carried (see roll call vote attached as Exhibit 8).

ACTION ON HB 520: Senator Towe moved HB 520 be recommended BE CONCURRED IN. The motion carried with Senators Mazurek and Yellowtail voting in opposition.

ACTION ON HB 643: Senator Shaw moved HB 643 be recommended BE CONCURRED IN. Senator Mazurek stated if we ever have a sales tax, you won't be able to apply it to guns. Senator Towe suggested a compromise. The issue is public buildings. The issue of the propriety of the bill is a very legitimate one. He thinks there is also a very serious problem about the public buildings, because that says the city or the county cannot protect itself. Senator Towe moved HB 643 be amended as follows:

1. Page 1, lines 24 and 25.
Following: "assembly"
Insert: ", publicly-owned building, park under its jurisdiction,"
Following: "school"
Strike: remainder of line 24 through "alarm" on line 25

2. Page 2, line 2.
Following: "minors."
Insert: "Nothing contained herein shall allow any government to prohibit the legitimate display of firearms at shows or other public occasions by collectors and others nor shall anything contained herein prohibit the legitimate transportation of firearms through any jurisdiction, whether in airports or otherwise."

Senator Shaw stated as he understands it, there has been an effort other places to ban all firearms. This bill is saying towns cannot ban firearms period. That is what he wants. He doesn't want the city fathers deciding they have to ban firearms to cut down on criminal activity. Senator Blaylock questioned whether they realized what they were doing. We are talking about local control, but we are saying cities and towns don't have the right to regulate themselves. The motion to adopt Senator Towe's amendments carried with Senator Crippen voting in opposition. Senator Shaw moved HB 643 be recommended BE CONCURRED IN AS AMENDED. He agreed with Senator Blaylock but knows there is a movement

STANDING COMMITTEE REPORT

March 28 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration... HOUSE BILL No. 520

third reading copy (blue color)

(Senator Towe)

CLARIFYING PUBLIC DOES NOT HAVE RIGHT TO USE DIVERTED WATER FOR RECREATION

Respectfully report as follows: That HOUSE BILL No. 520

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Joe Mazurek
Chairman.

HOUSE BILL NO. 520

INTRODUCED BY GRADY, COBB, SCEVE, BACHINI, HANSON, BAND, ROEHNKE, CAMPBELL, HOLLIDAY, FROST, JENKINS, COMPTON, SWITZER

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE PUBLIC DOES NOT HAVE THE RIGHT TO MAKE RECREATIONAL USE OF WATERS THAT HAVE BEEN DIVERTED FOR PURPOSES OF APPROPRIATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Recreational use of diverted surface waters prohibited. The right of the public to make recreational use of surface waters does not include the right to make recreational use of the following surface waters WITHOUT PERMISSION OR CONTRACTUAL ARRANGEMENT WITH THE OWNER:

(1) irrigation and drainage canals and ditches;

(2) MANMADE flood control channels;

(3) municipal, industrial, and domestic water systems, EXCLUDING THE LAKES, STREAMS, AND RESERVOIRS FROM WHICH THE SYSTEMS OBTAIN WATER;

(4) hydroelectric power supply INLET and discharge facilities; or

(5) any other waters while they are diverted away from a natural water body for beneficial use pursuant to Title 85, chapter 2, part 2 or 3, EXCEPT FOR IMPOUNDMENTS OR DIVERTED WATERS TO WHICH THE OWNER HAS PROVIDED PUBLIC ACCESS.

-End-